

Frequently Asked Questions About
The Proposed Critical Habitat
For the Holmgren and Shivwits Milk-vetches

Q – What action is the Fish and Wildlife Service taking?

A – The U. S. Fish and Wildlife Service is proposing to designate approximately 8,896 acres of land as critical habitat for the Holmgren and Shivwits Milk-vetches – plants that are members of the pea family protected under the Federal Endangered Species Act.

Q – Why is the Service proposing critical habitat?

A – In response to a lawsuit filed by the Center for Biological Diversity and Utah Native Plant Society against the Service for failure to designate critical habitat for the two plants, the Service agreed to a court settlement requiring it to make a final critical habitat determination by December 16, 2006.

Q – What is critical habitat?

A – Critical habitat designates areas that contain habitat essential for the conservation of a threatened or endangered species and which may require special management considerations. A designation does not set up a preserve or refuge and has no specific regulatory impact on landowners whose actions on their land do not involve Federal agency funds, authorization or permits.

Critical habitat is determined after taking into consideration the economic impact it could cause, as well as any other relevant impacts. The Secretary of the Interior may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, as long as the exclusion would not result in the extinction of the species.

Q – What is being proposed as critical habitat for the Holmgren and Shivwits Milk-vetchs?

A – Areas proposed as critical habitat include portions of Mohave County in Arizona and Washington County, Utah.

For the Holmgren milk-vetch, approximately 6, 475 acres are being proposed as critical habitat. Federal lands make up 42 percent of the proposed habitat and occur on land managed by the Bureau of Land Management in Utah and Arizona. In addition, State owned lands in Arizona (1,499 acres) and Utah (1,902 acres) and 272 acres of privately owned land make up the remainder of the proposed critical habitat.

For the Shivwits milk-vetch, the proposal identifies five units of proposed critical habitat totaling 2,421 acres. Approximately 84 percent of the proposed habitat occurs on Federal lands – with over 50 percent (1,201 acres) on National Park Service lands and the remaining (819 acres) on land owned by the Bureau of Land Management.

Details of the critical habitat proposal are included in the maps and documents published with the proposed rule in the *Federal Register*.

Q – How did the Service determine what areas should be proposed as critical habitat for

the milk-vetches?

A – The Service used the best scientific data available to determine areas that contain the physical and biological features essential for the conservation of the plants and reviewed all the available information concerning habitat conditions, threats, limiting factors, population demographics, and the known location, distribution, and abundance of the plants.

The Service is only proposing to designate areas that currently have the primary constituent elements essential to the conservation of the Holmgren and Shivruts milk-vetches and for areas that require special management. Primary constituent elements are physical and biological features that are essential to the conservation of the plants. They include those habitat components essential for the biological needs of each species, including seed germination and seedling growth, flower production, pollination, seed set and fruit production, and genetic exchange.

All areas proposed as critical habitat are within the historic geographic range of the plants and where they are currently known to occur.

Q – Who would be affected by a critical habitat designation?

A – Federal agencies are required to consult with the Service on actions they carry out, fund, or authorize that might affect critical habitat. It is important to note that in most cases, this is already occurring under the section 7 interagency consultation requirements of the Endangered Species Act.

Q - What would a critical habitat designation mean to a private landowner?

A - A critical habitat designation does not affect situations where a Federal agency is not involved - for example, a landowner undertaking a project on private land that involves no Federal funding or permit.

Q - How will a critical habitat designation for the milk-vetches affect use of my personal property? Will this result in any taking of my property?

A - The designation of critical habitat on privately-owned land does not mean the government wants to acquire or control the land. Activities on private lands that do not require Federal permits or funding are not affected by a critical habitat designation. Critical habitat does not require landowners to carry out any special management actions or restrict the use of the land.

If a landowner needs a Federal permit or receives Federal funding for a specific activity, the agency responsible for issuing the permit or providing the funds would consult with the Service to determine how the action may affect the species or its designated critical habitat. The Service will work with the Federal agency and private landowner to modify the project and minimize the impacts.

Q - How would State lands be affected by a critical habitat designation?

A - Non-Federal activities are not affected. Designation of critical habitat requires Federal agencies to review activities they fund, authorize, or carry out, to assess the likely effects of the activities on critical habitat.

Q – Would a critical habitat designation have economic impacts?

A – An economic analysis of the proposed critical habitat designation will be completed and

subject to public review prior to a final decision. The Secretary of Interior may exclude any area from critical habitat if the benefits of exclusion outweigh the conservation benefits of inclusion, as long as the exclusion would not result in the extinction of the species.

Q – How long would a critical habitat designation remain in effect?

A – Until the plants are considered to be recovered, and are de-listed.

Q – Will I have an opportunity to comment on the proposed critical habitat designations?

A – The 60-day comment period closes on May 30, 2006.

Comments on the Service's proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119 or electronically mailed to hsmlkvetch@fws.gov - using "Attn: Shivwits or Holmgren milk-vetch" in the subject line of your email by close of business on May 30, 2006. Comments may also be faxed to 801-975-3331.